

E-Mail Request for Emergency Relief

1. Case Number: 05-cv-614-SLR

2. Check the box that applies:

- Requesting a teleconference with the parties and the court
 Requesting an in-person conference with the parties and the court
 Requesting either of the above listed options at the court's determination

3. BRIEFLY describe the reason for this **emergency** request:

Following the 10/5 discovery conference, the extension of fact discovery past the 9/21 deadline, and the agreed-upon deferral of expert reports from 10/2 to 10/12, the parties are at an impasse over the expert discovery and summary judgment briefing schedule. If the Court sees fit to extend the summary judgment reply brief deadline by 3 days (from Tues. 1/9/07 to Fri. 1/12/07) without prejudice to the trial date, then the parties have agreed upon a schedule. BN does not, however, wish to extend the dispositive motion deadline if it will prejudice the 6/5/07 trial date. In that event, the parties respectfully request permission to submit to the Court a one-page chart outlining their respective proposed schedules (maintaining the original summary judgment briefing deadline), with footnotes indicating their objections to the opposing party's proposal. The parties will abide by whatever schedule the Court directs.

*Any text added beyond the limits of this space will be disregarded by the court.

4. Name of opposing counsel contacted about this request: Mary B. Graham

5. Response of opposing counsel to this request:

Disagrees that Acambis's conduct delayed the close of fact discovery beyond 9/21, or that BN could not reasonably have prepared opening expert reports by 10/2, but agrees to submit alternate schedules if Court does not wish to grant 3-day extension.

6. Name of local counsel making this request: Karen L. Pascale

7. Today's Date: October 16, 2006

For court use only:

- A teleconference will be held on _____ to be coordinated and initiated by _____
- An in-person discovery conference will be held on: _____
- Other: "The court will take the hit."